

## **REMARKS/ARGUMENTS**

### **Claim Amendments**

The Applicant has amended claims 1, 11 and 12; claims 13-22 have been canceled. Applicant respectfully submits no new matter has been added. Accordingly, claims 1-12 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

### **Claim Rejections – 35 U.S.C. § 101**

Claims 13-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 13-22 have been canceled. Claims 1-12 remain.

### **Claim Rejections – 35 U.S.C. § 103 (a)**

Claims 1-8, 10-20 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Radha et al U.S. Pat. No. 6,700,893 B1 in view of Zhu et al U.S. 6,085,252. In order to expedite allowance of this application, the Applicant has canceled the claims 13-22 without prejudice.

The Applicant's present invention and the Radha reference both use the term delay budget. As noted previously, the delay budget in the present Application is indicative of transmission capacity in a certain sense, that sense being the capacity for making retransmissions without the transmission of first (not previously-transmitted) data packets beyond their presentation time. The presentation time, in turn, corresponds to the latest time when a first data packet must arrive at the receiver to be processed and, in the case of a final receiver in a transmission, presented by the application. The delay budget calculation preferably takes into account the individual delay budgets for a number of first data packets. The delay budget of the present invention is intended to be reduced after a retransmission to account for the delay caused by the retransmission.

Radha uses the term 'delay budget' with a different meaning. Radha's delay budget is equivalent to the Applicant's delay requirement. The Radha delay budget is the time necessary between a request for retransmission and the time when this packet can be presented to the video (col. 9, line 50 – col. 10 line 8 and col. 11, line 23-30). Radha wants to avoid unnecessary retransmissions due to delay jitter (col. 1, lines 45 - 47; col. 2, lines 21 - 40). The Radha reference avoids unnecessary retransmissions of a delayed packet but, Radha always requests retransmission (contrary to the Applicant's invention). In other words, Radha uses a 'delay budget' value that takes into account the time needed for determining that a packet is lost and the time for recovering lost packets through the retransmission process. (See col. 12, lines 52-60.) (Note that a minimum value may be calculated using a start-up delay and a buffering delay (col. 12, lines 38-43).)

The Applicant's invention addresses the problem of self-congestion (p. 3, lines 15-22) which is not addressed at all by the Radha reference. If the bandwidth of a link is limited, the above retransmission scheme works fine for the retransmitted packet BUT this retransmission may delay other, in particular later, original packets; a feature and limitation not considered by Radha.

Correspondingly, the Applicant's delay budget is defined as the time which can be attributed to retransmissions without delaying original data packets (page 5, lines 29 - 30). Another way to define the delay budget is the amount of time that an original data packet can be delayed without causing a buffer underflow (page 15, lines 17-20). If such a delay budget is not available, the retransmission is not performed and some transmissions are cancelled (page 17, lines 19-21). Radha does not teach or suggest this definition of delay budget nor the cancelling of a retransmission.

The Detailed Action indicates that Zhu teaches selectively executing retransmission (col. 5, lines 10-17). The cited portion of the Zhu reference discloses allowing multiple retransmissions of the same lost packet (see also col. 4, line 24). The Applicant does not see "selectively executing" retransmission in the cited portion of Zhu. However, when facing self-congestion, this is probably the worst procedure to follow. Also, the Zhu reference fails to disclose the limitations recited above with regard to the

Radha reference. Thus neither Radha nor Zhu discloses the noted limitations. This being the case, the Applicant respectfully submits that neither Radha nor Zhu, either in combination or individually, discloses the limitations recited in claim 1.

Claims 2-8 and 10 depend from amended claim 1 and recite further limitations in combination with the novel elements of claim 1. Therefore, the allowance of claims 1-10 is respectfully requested.

Claims 9 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Radha and Zhu in further view of Hackenberg et al. U.S. Pat. No. 6,792,470 B2. In order to expedite allowance of this application, the Applicant has canceled claim 21. Therefore, the rejection with respect to this claim is deemed to be moot. The Applicant has amended claim 1 to better define the intended scope of the claimed invention.

The Hackenberg reference fails to supply the limitations missing from the Radha and Zhu references. That is, Hackenberg also fails to disclose or suggest the Applicant's definition and use of delay budget as set forth in amended claim 1. So, the Radha, Zhu and Hackenberg references fail to suggest, teach or disclose, individually or in combination, all of the limitations in Claim 1. This being the case, the Applicant respectfully requests the allowance of claim 9.

#### **Prior Art Not Relied Upon**

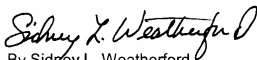
In paragraph 3 on page 10 of the Office Action, the Examiner stated that the prior art made of record and not relied upon is considered pertinent to the Applicant's disclosure.

### CONCLUSION

In view of the foregoing remarks, the Applicant believes all of the claims currently pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sidney L. Weatherford", with a stylized flourish at the end.

By Sidney L. Weatherford  
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